

**Testimony of Dr. Patrick Felice on behalf of
The CT Society of Plastic and Reconstructive Surgeons and the
CT State Medical Society
In opposition to the Cosmetic Surgery Tax Proposed in SB 1007
Before the Finance, Revenue and Bonding Committee
March 7, 2011**

Good afternoon, Senator Daily, Representative Widlitz and distinguished members of the Finance, Revenue and Bonding Committee. My name is Pat Felice, and I am a board certified plastic and reconstructive surgeon practicing in Bloomfield, CT and on staff at both Saint Francis Hospital and the UCONN Health Center. I am here today on behalf of the members of the CT Society of Plastic and Reconstructive Surgeons to speak against Governor Malloy's cosmetic surgery tax proposal contained in SB 1007.

As you well know, an important part of an effective tax program is the audit process. It is this process that ensures appropriate reporting and compliance with tax policy. When we begin to talk about taxing specific health care procedures, it is this aspect of tax policy that creates significant concern. In 1996, Congress passed the Health Insurance Portability & Accountability Act. HIPAA was passed specifically to protect the privacy of Americans' personal health records by protecting the security and confidentiality of health care information. Enforcement of this new tax on health care services would need to include DRS audits of medical practices to determine whether procedures were elective and/or cosmetic. Therefore, the provision invites the DRS into the exam room, violating HIPAA, to review personal medical records and determine

whether a procedure meets the definition. I want to be clear that you all understand the kind of information that is contained within these medical records. Things like:

- Results of tests and screenings
- Major illnesses and surgeries, like mental health status and HIV
- A list of medicines, dosages and how long you've taken them
- Any chronic diseases
- Any history of illnesses in your family

Doctor-patient confidentiality stems from the special relationship created when a prospective patient seeks the advice, care, and/or treatment of a physician. It is based upon the general principle that individuals seeking medical help or advice should not be hindered or inhibited by fear that their medical concerns or conditions will be disclosed to others. Patients entrust personal knowledge of themselves to their physicians, which creates an uneven relationship in that the vulnerability is one-sided. There is an expectation that physicians will hold that special knowledge in confidence and use it exclusively for the benefit of the patient.

The proposed tax provision puts us as physicians in a very untenable position and takes us away from what should be our main focus-the care of our patients. It is these patients that I want you to have a clearer picture of.

Contrary to popular belief, cosmetic surgery is not an exclusive luxury of the very wealthy. Eighty six percent (86%) of cosmetic surgery patients are working women and this tax discriminates against these women. In the first research of its kind, conducted with people planning to have cosmetic surgery within the next two years, 60% of respondents reported a household income of \$30,000-\$90,000 a year. Most

importantly, 40% of the 60% reported income of \$30,000-\$60,000. Only 10% of respondents reported household income over \$90,000. It is important to understand whom this tax impacts. These same patients can easily travel to Massachusetts, New York, or Rhode Island for their care. This "surgical flight" as it is called, will have a direct impact on our small businesses and the potential revenue that is gained from this tax. New Jersey saw this flight to other states and Connecticut will too.

I would like to leave you with this. A plastic surgeon has recently returned to Connecticut from New Jersey. He trained at Yale and is well recognized as a leader in our field. He does research on things like, "The effectiveness of chemotherapeutic regiments determined by tissue culture in the treatment of melanoma." Dr. Kim left New Jersey in large part because of the imposition of the tax there. New Jersey's loss was our (meaning the patients of CT) gain. These decisions have real consequences and long-term effects. I hope you will agree and remove this onerous provision from SB 1007.

Thank you for your consideration.